

Chapter One

THE INDEPENDENT POLICE
AUDITOR'S MISSION IS TO PROVIDE
AN INDEPENDENT REVIEW AND TO
PROMOTE PUBLIC AWARENESS OF
THE CITIZEN COMPLAINT PROCESS;
THEREBY, INCREASING GREATER
POLICE ACCOUNTABILITY BY THE
SAN JOSE POLICE DEPARTMENT.

I. Introduction:

A. Police and Auditor: A Symbiotic Working Relationship

In nine years the Office of the Independent Police Auditor (IPA) has developed into a model of civilian oversight of law enforcement that has been recognized and replicated throughout the United States. This accomplishment did not happen overnight nor was it without challenges and aggression. Like many other cities and counties that have civilian oversight, the IPA also experienced initial resistance to its establishment. When the concept of civilian oversight was first raised the former Chief of Police, threatened to resign. However, today, Chief William Lansdowne openly supports and acknowledges the work of the IPA. No longer does the presence and existence of the IPA evoke suspicion nor opposition from the San José Police Department (SJPD) and the focus is now on the issues and recommendations presented by the IPA. While agreement is not always reached between the IPA and the Chief of Police, there is an understanding that there will be professional disagreements. The role and responsibilities that this office was charged to administer have become an accepted and essential practice in the City of San José. Having an open channel of communication between the IPA and the SJPD has lead to collaborations in such areas as creating informational material for the public, community presentations, training sessions and most important, the implementation of IPA recommendations.

Although the IPA has forged a professional and cooperative relationship with the SJPD, it retains its independence by setting clear objectives. The IPA prepares annual Business and Investment

Strategy Plans with clear measurable goals and an Achievement Plan detailing all significant projects the IPA will undertake in each fiscal year. Further evidence of how this “Police – Auditor” symbiotic relationship works without compromising the IPA’s independence is found in the high percentage of structural changes that the SJPD has made in direct response to recommendations made by the IPA. Lastly, the San José Municipal Code clearly states that no person shall attempt to undermine the independence of the Police Auditor in the performance of its duties.



Former U.S. Attorney General congratulates joint effort of IPA and SJPD.

Left to Right: Lt. Christopher Moore- former IA Commander, Janet Reno- former U.S. Attorney General, Teresa Guerrero-Daley, Independent Police Auditor

B. Establishment of the Independent Police Auditor

Nine years ago, the San José City Council passed an ordinance to establish the Office of the Independent Police Auditor (IPA). The IPA was created to provide civilian oversight of the citizen¹ complaint process and to make policy recommendations to the San José Police Department. Unlike in some cities, police oversight was not created in the aftermath of a specific

¹The word citizen in this report is used to describe any person without relating to a person's citizenship, immigration status, or country origin.

police crisis but the Rodney King incident did provide momentum to a grassroots effort seeking to implement civilian oversight.

Thereafter, on November 4, 1996, San José residents voted to amend the City Charter making the IPA a permanent City office. The change to the City Charter also directed the City Council to appoint the Police Auditor to serve four year terms and that the removal of the Police Auditor, midterm, requires a vote of at least ten of the eleven City Council members.

C. Independence of the Police Auditor

As set forth in Title 8 of the San José Municipal Code, Section 8.04.020, subsection C and D:

- The Police Auditor shall, at all times, be totally independent, and requests for further investigations, recommendations, and reports shall reflect the views of the Police Auditor alone.
- No person shall attempt to undermine the independence of the Police Auditor in the performance of the duties and responsibilities set forth in Section 8.04.010.

D. Functions of the Independence Police Auditor

Section 8.04.010 of the San José Municipal Code, states that the Independent Police Auditor shall have the authority and responsibility to receive, review, and report on citizen complaints filed against peace officers employed by the San José Police Department (SJPd). The Independent Police Auditor's Office shall be separate from all other City functions and shall report directly to the Mayor and City Council, see appendix D. The Office of the Independent Police Auditor (IPA) has three primary functions:

- It serves as an alternate forum where people may file a complaint.
- It reviews the investigations of complaints conducted by the San José Police Department to determine if the investigation was complete, thorough, objective, and fair. Based on these reviews, the IPA makes recommendations for policy changes to the SJPd.
- It promotes public awareness of a person's right to file a complaint.

E. Reporting Requirements

The IPA reports are prepared on a semi-annual basis. This Year End Report covers the period from January first through December thirty-first of 2002. This report is prepared by the IPA pursuant to the requirements of the San José Municipal Code Section 8.04.101 (D). This section states that the IPA's report shall:

- Include a statistical analysis documenting the number of complaints by category, the number of complaints sustained, and the actions taken;
- Analyze trends and patterns; and
- Make recommendations.

II. Highlights of this Report

A. Year 2002, No Officer-Involved Shootings resulting in injuries or deaths:

For the third consecutive year, officer-involved shootings decreased in the City of San José. Four years ago, the San José Police Department was involved in eight officer shootings that resulted in seven people fatally shot and one seriously wounded. The SJPd and the IPA worked on implementing changes that focused on the use of deadly force. These efforts contributed to ending the year 2002 with no officer-involved shootings that neither injured nor killed a citizen or police officer.

Although the new training and equipment played a major role, ultimately, it was good judgement used by San José Police Officers that should be credited for diffusing situations and resolving conflict without the use of lethal force.

B. New Recommendations:

1. This report contains a study of the San José Police Department's "Early Warning System." This system tracks the number of complaints officers receive. Subject officers receiving three Formal complaints or five complaints of any type within a 12-month period are scheduled to participate in a counseling session with his/her immediate supervisor, the Internal Affairs Commander and the Deputy Chief of the bureau the officer is assigned to. This Intervention Counseling is a non-disciplinary process and no record of the substance of the session is kept. The IPA made recommendations based on the findings of the study analyzing the impact of the "Early Warning System" on subject officers' proactive policing.
2. The second recommendation seeks to implement, as a preventative measure, clear policy addressing conflicts of interest when handling complaints against top ranking San José Police Officers.

C. Citizen Complaints Patterns and Trends:

In this section, the different type and number of complaints are analyzed to detect patterns and trends. Statistics are reported by geographic areas, demographics of complainants and subject officers, the type of allegation, and the type of discipline imposed.

D. Community Relations:

In this section, the purpose, results, frequency, and nature of the IPA's community outreach is chronicled. Communication and interaction with the citizens of San José is crucial to the success of this office. The IPA's mandate to conduct outreach is based on the premise that the IPA must build a trust relationship with the public in order to carry out its mission. Because the IPA works with confidential police personnel matters, state law precludes the IPA from publicly disclosing the contents of a citizen complaint investigation. Therefore, the public is asked to have faith that the IPA will properly and ethically discharge its duties. The word faith is used because the public is asked to believe in the objectivity, thoroughness, and fairness in reaching a finding without seeing the evidence that lead to the outcome of their complaint.

E. Pending Recommendations:

Every year the IPA reviews prior and any pending recommendations and reports on their status. This is a critical and revealing measure of the effectiveness of this office because it tracks the changes and improvements made by the SJPD as a result of the IPA's oversight function.

III. Acknowledgment of Support

The success of the IPA is attributed to the support from the community, elected officials, and the working relationship it has developed over the years with the San José Police Department. The IPA and the SJPD operate independently but in a true spirit of cooperation. Over 90% of the IPA's recommendations have been adopted and implemented by the San José Police Department.